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116TH CONGRESS
1ST SESSION

H. R. 2038

To allow State-based, market-oriented, prescription drug negotiations to lower pharmaceutical drug prices, to encourage competition, to increase consumer choice and access, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2019

Mr. MEADOWS introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To allow State-based, market-oriented, prescription drug negotiations to lower pharmaceutical drug prices, to encourage competition, to increase consumer choice and access, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State-Based, Market-Oriented, Prescription Drug Negotiations Act of 2019''.

SEC. 2. ANTITRUST EXEMPTION FOR PRIVATE HEALTH INSURER ISSUERS TO NEGOTIATE WHOLESALE ACQUISITION PRICES OF PRESCRIPTION DRUGS PURCHASED FROM DRUG MANUFACTURERS.

It shall not be a violation of the antitrust laws for one or more private health insurer issuers or their designated agents to jointly negotiate wholesale acquisition prices of a prescription drug with a manufacturer of a prescription drug with regards to the reimbursement policies of the insurers of the manufacturer's drugs so long as no one single wholesale acquisition price is jointly determined between the insurance issuers or their designated agents.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition.

(2) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as de-

fined in paragraph (3)) which is licensed to engage in the business of insurance in a State and which is subject to State law which regulates insurance (within the meaning of section 514(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(2))). Such term does not include a group health plan.

(3) HEALTH MAINTENANCE ORGANIZATION.—The term ''health maintenance organization'' means—

(A) a federally qualified health maintenance organization (as defined in section 300e(a) of title 42 of the Code of Federal Regulations),

(B) an organization recognized under State law as a health maintenance organization, or

(C) a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

(4) MANUFACTURER.—The term ''manufacturer'' means anyone who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug.

(5) PRESCRIPTION DRUG.—The term ''prescription drug'' means any human drug required by Federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)).

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act but shall not apply with respect to conduct that occurs before such date.

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